

Effective 5/10/2016

61-2c-402 Disciplinary action.

- (1) Subject to the requirements of Section 61-2c-402.1, the commission, with the concurrence of the division, may impose a sanction described in Subsection (2) against a person if the person:
 - (a)
 - (i) is a licensee, a person previously licensed under this chapter for an act the person committed while licensed, or a person required to be licensed under this chapter; and
 - (ii) violates this chapter; or
 - (b)
 - (i) is a certified education provider or person required to be certified to provide prelicensing or continuing education under this chapter; and
 - (ii) violates this chapter.
- (2) The commission, with the concurrence of the director, may against a person described in Subsection (1):
 - (a) impose an educational requirement;
 - (b) impose a civil penalty against the individual or entity in an amount not to exceed the greater of:
 - (i) \$5,000 for each violation; or
 - (ii) the amount equal to any gain or economic benefit derived from each violation;
 - (c) deny an application for an original license;
 - (d) do any of the following to a license under this chapter:
 - (i) suspend;
 - (ii) revoke;
 - (iii) place on probation;
 - (iv) reduce a lending manager license to a loan originator license;
 - (v) deny renewal;
 - (vi) deny reinstatement; or
 - (vii) in the case of a denial of a license or a suspension that extends to the expiration date of a license, set a waiting period for a person to apply for a license under this chapter;
 - (e) issue a cease and desist order;
 - (f) require the reimbursement of the division of costs incurred by the division related to the recovery, storage, or destruction of a record that the person disposes of in a manner that violates this chapter or a rule made under this chapter;
 - (g) modify a sanction described in Subsections (2)(a) through (f) if the commission finds that the person complies with court ordered restitution; or
 - (h) impose any combination of sanctions described in this Subsection (2).
- (3)
 - (a) If the commission, with the concurrence of the division, issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.
 - (b) If a person fails to comply with a stated deadline:
 - (i) the person's license or certificate is automatically suspended:
 - (A) beginning the day specified in the order as the deadline for compliance; and
 - (B) ending the day on which the person complies in full with the order; and
 - (ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4)

- (a) A person whose license was revoked under this chapter before May 11, 2010, may request that the revocation be converted to a suspension under this Subsection (4):
 - (i) if the revocation was not as a result of a felony conviction involving fraud, misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and
 - (ii) by filing a written request with the division.
- (b) Upon receipt of a request to convert a revocation under this Subsection (4), the commission, with the concurrence of the director, shall determine whether to convert the revocation.
- (c) The commission may delegate to the division the authority to make a decision on whether to convert a revocation.
- (d) If the division, acting under Subsection (4)(c), denies a request to convert a revocation, the person who requests the conversion may appeal the decision in a hearing conducted by the commission:
 - (i) after the division denies the request to convert the revocation; and
 - (ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (e) The commission may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

Amended by Chapter 384, 2016 General Session